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Entered on Docket
February 07, 2017



Honorable Gary Spraker
United States Bankruptcy Judge



7 **ALDRIDGE PITE, LLP**
8 STACY H. RUBIN (SBN 9298)
9 SRubin@aldridgepite.com
10 EDDIE R. JIMENEZ (SBN 10376)
11 ejimenez@aldridgepite.com
12 520 South 4th St., Suite 360
13 Las Vegas, Nevada 89101
14 Telephone: (858) 750-7600
15 Facsimile: (619) 590-1385
16 E-mail: ecfnvb@aldridpiteduncan.com

17
18 MAILING ADDRESS:
19 4375 Jutland Drive, Suite 200
20 P.O. Box 17933
21 San Diego, California 92177-0933

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23 Attorneys for *Secured Creditor*
24 U.S. BANK NATIONAL ASSOCIATION, NOT
25 IN ITS INDIVIDUAL CAPACITY BUT SOLELY
26 AS TRUSTEE FOR THE RMAC TRUST,
27 SERIES 2016-CTT

18 **UNITED STATES BANKRUPTCY COURT**

19 **DISTRICT OF NEVADA - LAS VEGAS DIVISION**

20 In re
21 JOSE RAMIRO GONZALEZ,
22 Debtors.

Case No. 15-13122-led
Chapter 11

23
24 **ORDER ON STIPULATION RE:**
25 **TREATMENT OF U.S. BANK**
26 **NATIONAL ASSOCIATION, NOT IN**
27 **ITS INDIVIDUAL CAPACITY BUT**
28 **SOLELY AS TRUSTEE FOR THE**
29 **RMAC TRUST, SERIES 2016-CTT'S**
30 **CLAIM**

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32 The parties having agreed to the terms set forth in the Stipulation Re: Treatment of U.S.
33 Bank National Association, Not In Its Individual Capacity but Solely as Trustee for the RMAC

1 Trust, Series 2016-CTT's Claim Re: Real Property Located at 4801 Fernley Way, Las Vegas,
2 NV 89110 are bound by the terms of their stipulation, which shall be the Order of this Court. The
3 Stipulation, filed on January 31, 2017, as docket number 138, is hereby approved and made an
4 order of the court.

5 Respectfully Submitted by:
6

7 /s/ Stacy H. Rubin
8 STACY H. RUBIN (SBN 9298)
9 Attorneys for Secured Creditor U.S. BANK
NATIONAL ASSOCIATION, NOT IN ITS
INDIVIDUAL CAPACITY BUT SOLELY AS
TRUSTEE FOR THE RMAC TRUST,
10 SERIES 2016-CTT

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1 STACY H. RUBIN (SBN 9298)
2 SRubin@aldridgepite.com
3 EDDIE R. JIMÉNEZ (SBN 10376)
4 ejimenez@aldridgepite.com
5 **ALDRIDGE PITE, LLP**
520 South 4th St., Suite 360
Las Vegas, Nevada 89101
Telephone: (858) 750-7600
Facsimile: (619) 590-1385

6 **Mailing Address:**
7 4375 Jutland Drive, Suite 200
P.O. Box 17933
8 San Diego, California 92177-0933

9 Attorneys for *Secured Creditor*
U.S. Bank National Association, not in its individual capacity but solely as trustee for the
10 RMAC Trust, Series 2016-CTT

11 **UNITED STATES BANKRUPTCY COURT**
12 **DISTRICT OF NEVADA - LAS VEGAS DIVISION**

13 In re
14 JOSE RAMIRO GONZALEZ,
15 Debtor.

Case No. 15-13122-led
Chapter 11

16 **STIPULATION RE: TREATMENT OF
17 U.S. BANK NATIONAL ASSOCIATION,
18 NOT IN ITS INDIVIDUAL CAPACITY
BUT SOLELY AS TRUSTEE FOR THE
19 RMAC TRUST, SERIES 2016-CTT'S
20 CLAIM**

21 This Stipulation is entered into by and between Secured Creditor U.S. Bank National
22 Association, not in its individual capacity but solely as trustee for the RMAC Trust, Series 2016-
23 CTT ("Creditor"), by and through its attorneys of record, and Jose Ramiro Gonzalez, the Debtor
24 and Debtor-In-Possession herein (the "Debtor"), by and through their attorneys of record.

25 The property which is the subject of this matter is commonly known as 4801 Fernley
26 Way, Las Vegas, Nevada 89110 (hereinafter, the "Subject Property"), which is more fully
described as follows:

27 LOT 4 IN BLOCK 4 OF STEWART PLACE UNIT 6A, AS SHOWN BY MAP
28 THEREOF ON FILE IN BOOK 22, OF PLATS, PAGE 49 AND AMENDED BY
THOSE CERTAIN CERTIFICATES OF AMENDED RECORDED OCTOBER 26,

1 1978 IN BOOK 961 AS DOCUMENT NO. 920872 AND AUGUST 30, 1979 IN BOOK
2 1110 AS DOCUMENT NO. 1069619, OFFICIAL RECORDS, IN THE OFFICE OF
THE COUNTY RECORDS OF CLARK COUNTY, NEVADA.

3 On or about March 18, 2008, Debtor executed a Note in the principal sum of \$199,750.00
4 (the “Note”), which was made payable to Tamayo Financial Services, Inc. The Note is secured
5 by a deed of trust (the “Deed of Trust”) encumbering the Subject Property. Subsequently, the
6 beneficial interest in the Note and Deed of Trust were assigned to Creditor.
7

8 On or about May 29, 2015, Debtor filed a voluntary petition under Chapter 11 of the
9 Bankruptcy Code in the United States Bankruptcy Court, District of Nevada - Las Vegas
10 Division and was assigned Case No. 15-13122-led.
11

12 THE PARTIES STIPULATE AS FOLLOWS:
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14 1. Upon confirmation of a Chapter 11 Plan, Creditor shall have a secured claim in the
amount of \$199,327.62 (the “Secured Claim”) to be amortized over thirty (30) years at 2.02%
15 interest per annum.
16

17 2. Debtor shall tender regular monthly payments of principal and interest in the sum of
\$738.75 on the first of each month to Creditor for the Secured Claim commencing March 1,
18 2017, and continuing until February 1, 2047, when all such outstanding amounts under the
19 Secured Claim are to be paid in full. Payments are to be sent to: Rushmore Loan Management
20 Services, LLC, PO Box 52708, Irvine, California 92619. All payments made by the Debtor in
21 accordance with this paragraph after March 1, 2017, shall be applied to the Secured Claim upon
22 confirmation of Debtor’s Chapter 11 Plan.
23

24 3. In addition to the principal and interest payments described in paragraph 2 of this
Stipulation, Debtor shall tender all necessary escrow payments for any and all real property taxes
25 and/or real property insurance advances made or to be made by Creditor. Debtor shall tender the
26 necessary escrow payments together with the regular monthly mortgage payments described in
27 paragraph 2 above, commencing March 1, 2017, and continuing thereafter until the loan is paid
28 in full. The current monthly escrow payment is \$166.82 and is subject to change as escrow
29

1 needs are reanalyzed over the remaining life of the loan.

2 4. Except as otherwise expressly provided herein, all remaining terms of the Note and
3 Deed of Trust shall govern the treatment of Creditor's Secured Claims.

4 5. In the event of any future default on any of the above-described provisions, inclusive
5 of this Stipulation, Creditor shall provide written notice via first class mail to Debtor at 516
6 North 15th Street, Apt Number 1, Las Vegas, Nevada 89101-3283, and mailed to Debtor's
7 attorney of record, Corey B. Beck, at 425 South 6th Street, Las Vegas, NV 89101, indicating the
8 nature of default. If Debtor fails to cure the default with certified funds after passage of fifteen
9 (15) calendar days from the date said written notice is placed in the mail, then Creditor may
10 proceed to foreclose its security interest in the Subject Property under the terms of the Note and
11 Deed of Trust and pursuant to applicable state law and thereafter commence any action necessary
12 to obtain complete possession of the Subject Property without further notice, order, or
13 proceeding of this Court. This provision shall only be effective prior to the closing of the
14 bankruptcy case, either administratively or finally. Should the Debtor default under the terms of
15 the Stipulation and/or Chapter 11 Plan after the case is closed, Creditor may proceed to foreclose
16 its security interest under the terms of the Note, Deed of Trust and applicable state law without
17 any further action.

18 6. The acceptance by Creditor of a late or partial payment shall not act as a waiver of
19 Creditor's rights to proceed hereunder.

20 7. Any notice of default that Creditor provides Debtor and/or Debtor's attorney
21 pursuant to this Stipulation shall not be construed as a communication under the Fair Debt
22 Collection Practices Act, 15 U.S.C. § 1692.

23 8. At the request and discretion of the Creditor, Debtor shall execute such documents
24 and instruments as are necessary to reflect that Debtor as the borrower of the Secured Claim, and
25 to modify the terms of the obligation to conform to the provisions of this Stipulation.

26 9. In the event the Debtor sells or refinances the Subject Property prior to receiving his
27 Chapter 11 discharge, Creditor shall be entitled to exercise its rights pursuant to 11 U.S.C. §
28 363(k) and/or 11 U.S.C. § 363(f) and shall be permitted to receive proceeds from the sale of the

1 Subject Property in an amount not less than the outstanding balance owing under the original,
2 unmodified terms of the Note. In the event Debtor seeks to sell or refinance the Subject Property
3 prior to receiving his Chapter 11 discharge and attempts to pay Creditor less than the outstanding
4 balance owing under the original, unmodified terms of the Note, Creditor must provide express
5 written consent to the sale or refinance.

6 10. The terms of this Stipulation shall constitute the complete and entire treatment of
7 Creditor's Secured Claim and may not be modified, altered, or changed by the Plan, any
8 confirmation order thereon, any subsequently filed Amended Chapter 11 Plan of Reorganization
9 and confirmation order thereon or any modification thereof without the express written consent
10 of the Creditor. The above terms of this Stipulation shall be deemed incorporated into the Plan
11 and/or any subsequently filed Amended Chapter 11 Plan of Reorganization. The Debtor shall file
12 an amended Chapter 11 plan and/or confirmation order that incorporates the terms of this
13 Stipulation and attach a copy of this Stipulation as an exhibit to the amended plan and/or
14 confirmation order. The Debtor's failure to comply with this provision shall constitute a default
15 under the terms of the Stipulation. In the event of a conflict between this Stipulation and
16 Debtor's Chapter 11 Plan, confirmation order or any amendments or modifications thereof, the
17 terms of this Stipulation shall control.

18 11. In the event Debtor's case is dismissed or converted to any other chapter under
19 Title 11 of the United States Bankruptcy Code, Creditor shall retain its lien in the full amount due
20 under the Note, to be paid at the rate and terms provided for under the Note and Deed of Trust,
21 and the automatic stay shall be terminated without further notice, order or proceeding of the
22 Court. Any default owing under the Note at the time of confirmation shall be of full force and
23 effect upon a dismissal or conversion of Debtor's case.

24 12. In the event the Debtor asserts Creditor has failed to properly update its system
25 to comply with the terms of this Stipulation within a reasonable period of time after an order is
26 entered confirming the Debtor's Chapter 11 Plan of Reorganization, which shall be no less than
27 ninety (90) days, the Debtor shall be required to provide written notice of the alleged lack of
28 compliance to Creditor and Creditor's counsel of record, Aldridge Pite, LLP, at 4375 Jutland

1 Drive, Suite 200, San Diego, CA 92177, as well as electronically at SRubin@aldridgepite.com
2 and ecfnvb@aldridgepite.com, indicating the nature of the alleged lack of compliance. If Creditor
3 fails to either remedy the alleged lack of compliance and/or provide an explanation refuting the
4 Debtors' allegation after the passage of ninety (90) days from the date Creditor receives said
5 written notice (the "Meet and Confer Period") Debtor may proceed with filing the appropriate
6 motion in bankruptcy court seeking Creditor's compliance. However, provided Creditor has in
7 good faith sought to remedy Debtor's grievance during the Meet and Confer Period, Debtor shall
8 not request nor be entitled to an award of their attorneys' fees and costs nor sanctions as a result
9 of filing said motion. The Bankruptcy Court shall retain jurisdiction to determine any dispute
10 regarding the accounting for and application of any payments made pursuant to the instant
11 Stipulation.

12 13. Except as expressly provided herein, the Debtor waives any and all claims, causes
13 of action, whether known or unknown, he currently has against Creditor, and its respective
14 agents, parents, affiliates, subsidiaries, attorneys, predecessors, current and subsequent holders of
15 the Note and Deed of Trust (collectively the "Loan"), successors and assigns in relation to the
16 Loan referenced herein and any and all agreements which exist between them regarding or
17 relating to the Loan prior to the date of this Stipulation. This waiver includes Debtor's right to
18 object to Creditor's Claim. The Debtor also releases Creditor and its respective agents, parents,
19 affiliates, subsidiaries, attorneys, predecessors, current and subsequent holders of the Loan,
20 successors and assigns from any liability in relation to the Loan prior to the date of this
21 Stipulation.

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1 14. In exchange for the forgoing, this Stipulation shall constitute a ballot voting in
2 favor of the Debtor's Chapter 11 Plan of Reorganization for the Secured Claim.
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4 Dated: January 31, 2017

ALDRIDGE PITE, LLP

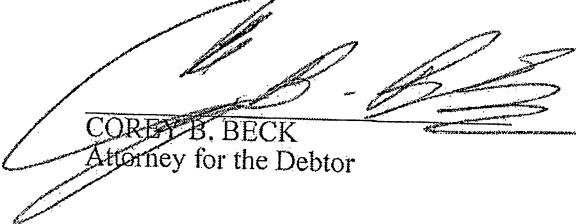
5 */s/ Stacy H. Rubin (SBN 9298)*

6 STACY H. RUBIN

7 Attorneys for Secured Creditor U.S. BANK
8 NATIONAL ASSOCIATION, NOT IN ITS
9 INDIVIDUAL CAPACITY BUT SOLELY
10 AS TRUSTEE FOR THE RMAC TRUST,
11 SERIES 2016-CTT

10 Dated: 1/31/17, 2017

11 COREY B. BECK
12 Attorney for the Debtor



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